

REMARKS

Telephone conferences between the Examiner and Dennis Smid (one of the applicants' undersigned attorneys) were held on November 17, and 24, and December 30, 2004. The applicants and Mr. Smid wish to thank the Examiner for his time and consideration for such interviews.

Claims 60-95 are in the application.

Claims 60-64, 84-85, 89-92, and 95 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kikinis U.S. Patent No. 5,596,639A, and further in view of Davis et al. Cryptographic Randomness from Air Turbulence in Disk Drive and Adler U.S. Patent No. 3,985,952A.

Independent claim 60, as amended herein, recites in part as follows:

“...generating an encryption key based on key data which is recorded to one or more predetermined regions on the same surface as the encrypted data and determined from a wobbling frequency of said recording medium yet is not part of said encrypted data...”
(Emphasis added)

The Examiner appears to acknowledge that Kikinis does not disclose the above feature of claim 60. (See lines 13-14 of page 3 of the present Office Action.) In an attempt to overcome this deficiency of Kikinis, the Examiner appears to ely on Davis and, in particular, lines 6-8 of page 114 thereof, to disclose the above feature of claim 60. As discussed with the Examiner during the November 17th and 24th interviews, it is respectfully submitted that the portion of Davis relied on by the Examiner (hereinafter “Davis”) does not appear to disclose

“encryption key based on key data which is ...determined from a **wobbling frequency**.”

Instead, Davis appears to mention a random number generator “based on disk-speed variations.”

As also discussed during the November 17th and 24th interviews, it is respectfully submitted that “disk-speed variations” is not the same as “wobbling frequency.” Accordingly, independent claim 60 is believed to be distinguishable from the applied combination of Kikinis and Davis.

For reasons similar to those described above with regard to claim 60, independent claims 61, 62, 91, and 95 are believed to be distinguishable from the applied combination of Kikinis and Davis.

Independent claim 84, as amended herein, recites in part as follows:

“wherein said key data is random data **from a source different than that of said encrypted data** which has been inserted in-between said encrypted data at predetermined positions”
(Emphasis added)

During the November 17th, 24th, and December 30th interviews the Examiner suggested that claim 84 be amended as presented herein. During such times, the Examiner indicated that such feature should distinguish over the applied references. Accordingly, amended independent claim 84 is believed to be distinguishable from the applied combination of Kikinis and Davis.

For reasons similar to those described above with regard to claim 84, amended independent claims 85 and 89 are believed to be distinguishable from the applied combination of Kikinis and Davis.

Claims 63, 64 , 90, and 92 depend from one of claims 62 , 89 and 91 and, due to such dependency, is believed to be distinguishable from the applied combination of Kikinis and Davis for at least the reasons previously described.

Claims 65-80, 83, 81-82, 86-88, and 93-94 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kikinis U.S. Patent No. 5,596,639A as applied to claims 60-62 above, and further in view of Elmer et al. U.S. Patent No. 5,058,164A.

Independent claim 65, as presented herein, recites in part the following:

“wherein said key data is random data **from a source different than that of said encrypted data** which has been inserted in-between said encrypted data at predetermined positions.” (Emphasis added.)

As previously indicated, during the November 17th, 24th, and December 30th interviews the Examiner indicated that the above feature should distinguish over the applied references. Accordingly, amended independent claim 65 is believed to be distinguishable from the applied combination of Kikinis and Elmer.

For reasons similar to those described above with regard to claim 65, amended independent claims 76, 79, 86-89, and 93 are believed to be distinguishable from the applied combination of Kikinis and Elmer. Claims 66-75, 77, 78, 80-83, 90, and 94 depend from one of these independent claims and, due to such dependency, are believed to be distinguishable from the applied combination of Kikinis and Davis for at least the reasons previously described.

Furthermore, during the November 17th, 24th, and December 30th interviews the Examiner mentioned several references which were not officially made of record. At least one of these references was not specifically identified by the Examiner. The Examiner stated that he would provide the applicants with an Interview Summary Record which identifies all of these references. However, to date, the Examiner has not provided such Interview Summary Record. Accordingly, it is respectfully requested that if the Examiner wishes to rely on additional

references, that he officially make such references of record, whereupon if needed and/or desired the applicants will provide a response thereto.

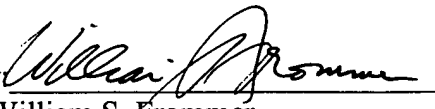
In the event that the Examiner disagrees with any of the foregoing comments concerning the disclosures in the cited prior art, it is requested that the Examiner indicate where in the reference or references, there is the bases for a contrary view.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable over the prior art, and early and favorable consideration thereof is solicited.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By 
William S. Frommer
Registration No. 25,506
Tel. (212) 588-0800